

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

24926-25000

[Approved by the Acting Secretary of Agriculture, Washington, D. C., April 9, 1936]

24926. Adulteration and misbranding of potatoes. U. S. v. Leonard, Crosset & Riley, Inc., and Felix J. Lukasavitz. Pleas of guilty. Fines, \$51. (F. & D. no. 34064. Sample no. 64403-A.)

This case involved an interstate shipment of potatoes which were below the grade declared on the label.

On August 5, 1935, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Leonard, Crosset & Riley, Inc., and Felix J. Lukasavitz, trading at Custer, Wis., alleging that on or about April 10, 1934, the said defendants had shipped from the State of Wisconsin into the State of Illinois a quantity of potatoes, that the article had been reconsigned from the State of Illinois into the State of Ohio, and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: (Sack) "U. S. Grade No. 1 Wisconsin Potatoes Sun Brand Leonard, Crosset & Riley, Inc. Waupaca, Wisconsin."

The article was alleged to be adulterated in that potatoes of a lower grade than U. S. No. 1 had been substituted in whole or in part for U. S. grade No. 1 potatoes, which the article purported to be.

Misbranding was alleged for the reason that the statement, "U. S. Grade No. 1 * * * Potatoes", borne on the sack, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the potatoes were not U. S. grade No. 1 but were of a lower grade.

On September 3, 1935, pleas of guilty were entered on behalf of the defendants and the court imposed a fine of \$50 against the corporation and \$1 against Felix J. Lukasavitz.

W. R. GREGG, *Acting Secretary of Agriculture.*

24927. Misbranding of salad oil. U. S. v. 28 Cans, et al., of Salad Oil. Decrees of condemnation. Product released under bond to be relabeled. (F. & D. nos. 34451, 34452, 34566, 34574. Sample nos. 21204-B, 21205-B, 21254-B, 21262-B.)

These cases involved interstate shipments of a product consisting essentially of cottonseed oil or a mixture of cottonseed oil and an oil similar to corn oil, with perhaps a little olive oil present in some of the lots, which was labeled to convey the impression that it was olive oil of foreign origin.

On December 5, December 18, and December 21, 1934, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 220 cans of salad oil in part at Meriden, Conn., and in part at New Haven, Conn., alleging that the article had been shipped in interstate commerce in various shipments on or about October 4, October 10, and November 20, 1934, by the Valentino Salad Oil Co., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled, variously: "Rosa Mia Brand Oil [or "Olio Da Lucca Brand"] * * * Packed by Valentino Salad Oil Co."; "Olio Sopraffino Balbo Brand * * * Packed by S B B'klyn, N. Y."

The article was alleged to be misbranded in that the following statements and designs appearing in the labeling were false and misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was Italian olive oil, whereas it was not: (Rosa Mia brand) "Marca Rosa Mia Olio Vegetale per insalata e cucina", "Puro e delizioso vegetale, specialmente indicato per insalata salse frittiture ed in tutti gli uso di cucina e tavola", and the green color of the can suggestive of olives; (Balbo brand) "Olio Sopraffino Balbo", "Questo latta contiene una deliziosa qualita di olio per insalata uso tavola e per uso cucina", and the design of the Italian coat of arms; (Da Lucca brand) "Olio Marca Da Lucca", "Olio puro d'oliva quindici per cento, con la migliore qualita d'olio vegetabile ottanta cinque per cento con arome e colore", "Garantito sotto ogni analisa chimica. Confezionato col processo piu igienico", "superior salad oil." Misbranding was alleged for the further reason that the article purported to be a foreign product when not so. Misbranding was alleged with respect to the Rosa Mia brand for the further reason that the statement on the label, "Rosa Mia Brand Oil A * * * pure vegetable oil", was misleading since the words "vegetable oil" are applicable to olive oil.

On September 17, 1935, judgments of condemnation were entered and it was ordered that the product be released to the claimant under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

24928. Adulteration and misbranding of pickles. U. S. v. 66 Jars, et al., of Pickles. Default decrees of condemnation and destruction. (F. & D. nos. 35140, 35141, 35142. Sample nos. 27455-B, 27456-B, 27471-B to 27474-B incl.)

These cases involved shipments of pickles which were misbranded in several, and in some instances all, of the following ways: Short volume; ambiguous declaration of the quantity of the contents; sodium benzoate undeclared or in excess of the amount declared; misleading impression created by the label that the product was produced by a firm other than the real manufacturer. Two of the lots were also adulterated because of the presence of added saccharin.

On or about February 20, February 21, and April 5, 1935, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 66 jars of pickles at Kansas City, Kans.; 5 cases of pickles at Lawrence, Kans.; and 122½ cases of pickles at Topeka, Kans., alleging that the article had been shipped in interstate commerce, in various lots on or about September 28, October 26, and November 2, 1934, by the Southern Manufacturing Co., from St. Louis, Mo., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The articles were labeled, variously: "Golden West Brand Sweet Cauliflower Pickles Contents 12 Oz. Southern Mfg. Co. St. Louis, Mo."; "Tee Pee Brand Sliced Sweet Pickles Contents 7 oz. .01% Benzoate of Soda Distributed by The Theo. Poehler Mercantile Co. Lawrence, Ks."; "Jo-Andy Sweet Mixed Pickles [or "Sweet Pickles" or "Sliced Sweet Pickles"] Contents 1 Quart [or "Contents 25 Oz.", "Contents 16 Oz.", or "Contents 7 Oz."] .01% Benzoate of Soda Topeka Wholesale Grocery Co. Topeka, Kansas."

The libels charged adulteration of the two lots of sliced sweet pickles in that the article contained an added poisonous and deleterious ingredient, saccharin, which might have rendered it injurious to health. Adulteration was alleged with respect to a portion of the sliced sweet pickles for the further reason that a product containing added saccharin had been substituted for the article.

Misbranding was alleged with respect to all lots for the reason that the statements, "Contents 12 Oz.", "Contents 7 Oz.", "Contents 1 Quart", "Contents 25 Oz.", and "Contents 16 Oz.", were false and misleading and tended to deceive and mislead the purchaser, since the jars contained less than declared. Misbranding of all lots was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since it was incorrect in all instances, and the statement was ambiguous in the lots marked "12 Oz.", "25 Oz.", "16 Oz.", and "7 Oz.", since neither weight nor measure was definitely stated. Misbranding was alleged with respect to one lot for the reason that it was labeled so as to deceive and mislead the purchaser since the presence of added benzoate of soda was not declared on the